



RIGHTS STUFF

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Woman Loses Sexual Harassment Case

Dayna Scruggs worked at Garst Seed Company's seed breeding facility in Brookston, Indiana. Her job title was Research Technician.

Scruggs began working with Curtis Beazer around 1988. He became her supervisor in 1995, and according to Scruggs, he began giving her trouble at that time. She said he refused to provide her with assistance in dealing with two temporary employees. When she complained to him about his lack of support, he told her she was "too dumb to catch on" and that she was responsible for dealing with the temporary employees.

Scruggs said that Beazer tried to get her to quit her job. She said he intentionally under-built a new greenhouse facility in 2001, changed the temperature in the greenhouse on several occasions and performed "crosses" of plants too early. She said he told another employee to spy on her in 2002 and 2003, and that he once asked her what it would take for her to leave because he would rather hire a 20-year-old employee to do field work.

She gave other examples of poor practices on Beazer's part:

- She said that he once introduced her as the person in charge of cookies with sprinkles;
- She said that he gave her additional duties as retaliation for reporting that he had hit her;
- She claimed that he said he hated "pushy, aggressive women" like her;
- And she claimed that he said she was "made for the back seat of a

car," that her parties were "drunken fiascos," that she was not "smart enough," that she looked like a "UPS driver," "a dyke" and a "redneck."

Beazer also made disparaging comments about male employees, calling one of them fat and making fun of their homes and cars.

In May 2004, the company considered a reorganization under which Beazer would have been demoted or offered a severance package, Scruggs would have kept her job and another position would have been eliminated. Instead, later that year, Syngental Seeds bought a majority interest in Garst and restructured the soft wheat research operations. As part of the reorganization, each location lost its research technician position, the position that Scruggs held in Brookston.

In November 2004, a supervisor from Syngental went to Brookston to tell the staff about the reorganization. Scruggs, who was on medical leave at the time, did not attend the staff meeting. The supervisor said he left a message on her home answering machine, but Scruggs said she didn't learn about the reorganization for months. She filed a complaint with the EEOC alleging sex discrimination, a hostile work environment and retaliation.

In the spring of 2005, Scruggs applied for a research assistant position at the Brookston facility, but they hired a man instead. She then filed another

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ADA Lawsuit Fails

Anthony Falso was hired by Salzman Group, Inc., to be a customer service representative for its business, Whole Latte Love. Falso, who has a learning disability and obsessive compulsive disorder, said that he was fired after his job coach told Salzman that he had a learning disability. He sued under the ADA and lost.

Falso did not provide evidence that either of his conditions constituted a substantial impairment of a major life activity. Nor did he provide evidence that Salzman regarded him as having a disability. He said that his job coach told Salzman that he had a disability, but this was hearsay. Thus, he was not entitled to legal protection under the ADA.

Even if there was evidence that Falso did have a disability as the law defines the term, and that Salzman

knew about it, Salzman provided a legitimate, non-discriminatory reason for its decision to terminate Falso. Salzman said that when one of its female supervisors was training Falso, he placed "his hands in and around his groin area, in a manner that appeared to be calculated for the purpose of sexual gratification." The supervisor did not feel she could work with him and complained. Salzman found her story credible and terminated him.

Falso did not deny doing this, but said that during training, he became nervous due to the "inappropriate clothing" of some of the female employees which "revealed various parts of their anatomy," and that he "involuntarily" reacted by making "irregular" movements with his hands in and around his waist, including inserting his hands inside his pants to adjust his clothing as a means to obtain "relief" from his

stress. He speculated that these "involuntary movements" might have been triggered by a nervous reaction which exacerbated his OCD, but he provided no medical support for his speculation.

The Court said that "disruptive and inappropriate behavior is a legitimate, nondiscriminatory reason for termination, and an employer's termination of an employee for such behavior does not violate the ADA, even where the misconduct was occasioned by the employee's alleged disability."

Falso also complained that he was harassed on the basis of his disability, but provided no evidence to support that allegation. The Court granted Salzman its motion for summary judgment. The case is Falso v. Salzman Group, Inc., 545 F. Supp. 2d (W.D.N.Y. 2008). ♦

Sexual Harassment Case (Continued from page 1)

charge of discrimination with the EEOC.

The cases ended up in court, where Scruggs lost. The Court said that the company showed that it had decided to eliminate her position before she filed her first complaint with the EEOC, and thus its decision could not have been retaliation for her having filed a complaint with the EEOC. It said the company showed that the man who was hired was more qualified for the new position, as he had a college degree and practical experience in genetics, which she did not have. He also had experience working at other facilities, which the company thought would be useful.

The Court also said that the

problems that Scruggs said she had at work did not rise to the level of a hostile work environment as the law defines the term. Some of her allegations happened before the 300-day charging period, but the Court said that even if it considered those allegations, what she experienced was not sufficient to constitute an illegally hostile work environment. The Court said it considered the following factors in making its determination: the severity of the allegedly discriminatory conduct, its frequency, whether it was physically threatening, humiliating or merely offensive and whether it unreasonably interfered with an employee's work performance. It said that "offhand comments, isolated incidents and simple teasing do not rise to the level of conduct that alters the terms and conditions

of employment." The Court said that Scruggs' allegations amounted to the occasional inappropriate comment and that there was evidence that Beazer aimed similar comments to male employees. There was no allegation that he was physically threatening, other than the one allegation that he had hit her in 2005.

The Court granted the employer's motion for summary judgment. The case is Scruggs v. Garst Seed Company, 587 F.3d. 832 (7th Circuit 2009).

If you have questions about your rights and responsibilities under fair employment laws, please contact the BHRC. ♦



BHRC Announces Winners Of Annual Essay/Art Contest

The winners of the nineteenth annual BHRC essay/art contest have been announced. The theme for 2010 was a two-part theme. For students up to fourth grade, the theme was "Being Kind to Each Other: The Best Example I Know." For older students, the theme was "Civil Conversations: Getting Along in Our Diverse Community." The students illustrated these themes in a variety of creative and provocative ways.

The essay winners at the younger student level were Nina Castro-Sauer, a fourth grader from University, first place; Matthew Landgraf, a fifth grader at Childs, second place; and Ingle Makemson, a second grader at Childs, third place.

The essay winners at the older student level were Ciabhan Connelly, a sixth grader at Harmony, first place; Kwadwo Assensoh, an eighth grader at Tri-North, second place; and Katherine Tilghman, a fifth grader at Childs, third place.

The art entries came in two forms: 3-D and drawings.

Mrs. Smith's third grade class from Childs, for the second year in a row, won first place in the 3-D art contest for younger children, creating a Kindness Quilt made up of recycled materials. Second place went to a joint project made by four students from Templeton: Lucia Davila, fifth grade; Toudora Galuska, fourth grade; Layla Moore, fourth grade; and Becca Smith, third grade. And Dashielle Schonemann-Poppeliers, a fourth grader at Templeton, won third place at this level.

First place in the 3-D art contest for older students went to four students from Templeton: Ben Woolford, sixth grade; Adam Diersing, fifth grade; Gabriel Bruner, fourth grade and Stella Winterman, sixth grade. Second place went to Amy C. Moore, a sixth grader at Lakeview.

Two students from Templeton's fourth grade class won a prize for their work, Robby Gonyea and Milo Roeder.

For the drawing contest for older students, Livingston Assensoh from Binford's sixth grade won first prize. Laura Mitchell and Anna Deckard, both sixth graders at Lakeview, shared second prize.

Mayor Mark Kruzan presented the awards to the winning students at a ceremony held on March 25 in the Council Chambers. (Picture below.) The BHRC thanks Mayor Kruzan for presenting the awards and the donors who made the prizes possible: Andrews, Harrell, Mann, Carmin & Parker, PC; Pizza X; Robinson Construction Management, Inc.; Cassady Electrical Contractors, Inc. and William C. Lloyd, Attorney at Law.



Mayor Mark Kruzan and 2010 winners



Council For Community Accessibility Announces Poster Competition

The City of Bloomington Council for Community Accessibility (CCA) is calling for entries in its newly created disability and accessibility awareness poster competition.

The competition runs through the end of May. Prizes will be awarded to selected entries and announced at the July celebration of the 20th anniversary of the signing of the Americans with Disabilities Act of 1990.

All poster submissions should highlight a disability and/or an accessibility issue and may include graphic design, drawing, painting or photography, and all entries must include a registration form. Information about the competition and registration forms are available at the Community and Family Resources Department at City Hall, 401 N. Morton Street, Suite 260, or online at www.bloomington.in.gov/cca. For information, contact Craig Brenner at 349-3471. ♦

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